

**IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO – WESTERN DIVISION**

In re: James D. Gentry : Case No. 16-31310  
:   
Debtor : Chapter 13  
:   
: Judge Guy R. Humphrey

**OBJECTION OF CREDITOR STATE OF OHIO, DEPARTMENT  
OF TAXATION TO CONFIRMATION OF DEBTOR’S AMENDED PLAN  
[DOCKET NO. 22]**

Now comes Attorney General Mike DeWine, acting through special counsel duly appointed as provided in Ohio Revised Code Section 109.08, on behalf of Creditor, the State of Ohio, Department of Taxation (the “DOT”), and objects to the confirmation of Debtor’s proposed Amended Chapter 13 plan (the “Plan”) on the grounds that the Plan fails to provide for proper treatment of the secured claims of DOT as required by required by 11 U.S.C. 1322. A Memorandum further supporting this Objection is attached hereto.

Respectfully submitted,

/s/ Erin M. Dooley  
Charles A. Mifsud (0070498)  
Special Counsel to the Attorney General  
Erin M. Dooley (0089092)  
THE LAW OFFICE OF CHARLES MIFSUD, LLC  
6305 Emerald Parkway  
Dublin, OH 43016  
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Attorneys for Creditor, State of Ohio,  
Department of Taxation

**MEMORANDUM IN SUPPORT**

DOT is a creditor of Debtor in this matter through several assessments that have been filed as certificates of judgment with the Montgomery County, Ohio Clerk of Courts making DOT a secured creditor. Special Provision No. 2 of Debtor's Plan sets forth specific treatment for any secured claim of DOT. Debtor proposes to pay such claim in minimum monthly payments of \$500.00 at 0.00% interest for the duration of the plan and in the event that the claim is not paid in full the Debtor waive discharge of any and all non-dischargeable amount remaining at the end of the case. This Special Provision violates 11 U.S.C. 1325.

For secured claims, 11 U.S.C. 1325(a)(5)(B)(ii) requires that "the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim." Debtor's proposal to pay any secured claim of DOT in monthly installment payments with no interest violates this provision.<sup>1</sup>

WHEREFORE, for the foregoing reasons, the DOT objects to Special Provision No. 2 of Debtor's plan and asks this Court to deny confirmation of the Plan.

Respectfully submitted,

/s/ Erin M. Dooley

Charles A. Mifsud (0070498)

Special Counsel to the Attorney General

Erin M. Dooley (0089092)

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Department of Taxation

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<sup>1</sup> DOT would be willing to accept the interest rate set forth in Ohio Revised Code 131.02(D) for debts, such as these assessments, certified to the Ohio Attorney General for collection. That rate is currently 3.0% per annum.

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**NOTICE OF OBJECTION TO CONFIRMATION DEBTOR'S PLAN**

The State of Ohio, Department of Taxation has filed papers with the Court objecting to confirmation of Debtor's Chapter 13 Plan.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.**

**If you wish to oppose this motion, then you or your attorney must file with the Court a written within twenty-one (21) days of the date of this notice setting forth the basis for your objection and requesting a hearing.**

Any response must state the basis for your objection. This pleading must be filed with the Clerk of Courts, United States Bankruptcy Court for the Southern District of Ohio, 120 West Third Street, Dayton, Ohio 45402 or may be filed using the Court's ECF system.

If you mail your response to the Court for filing, you must mail it early enough so that the Court will receive it on or before the due date. You must also mail a copy to or serve a copy by ECF on:

Erin M. Dooley  
The Law Office of Charles Mifsud, LLC  
6305 Emerald Parkway  
Dublin, OH 43016  
[erin.dooley@mifsudlaw.com](mailto:erin.dooley@mifsudlaw.com)

Office of the U.S. Trustee  
170 N. High Street  
Columbus, OH 43215  
[ustpreregion.cb.ecf@usdoj.gov](mailto:ustpreregion.cb.ecf@usdoj.gov)

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Objection and may enter an Order sustaining the Objection to confirmation of the Plan.

Date: July 22, 2016

Respectfully submitted,

/s/ Erin M. Dooley

Charles A. Mifsud (0070498)

Special Counsel to the Attorney General

Erin M. Dooley (0089092)

THE LAW OFFICE OF CHARLES MIFSUD LLC

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Dublin, OH 43016

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Attorneys for Creditor, State of Ohio,  
Department of Taxation

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served by ECF at the email address registered with the Court on the 22<sup>nd</sup> day of July, 2016, upon:

Scott A Kramer  
130 W. Second Street  
Suite 310  
Dayton, OH 45402

Office of the U.S. Trustee  
170 North High Street, Suite 200  
Columbus, OH 43215-2417

Brian M Gianangeli  
6305 Emerald Parkway  
Dublin, OH 43016

Jeffrey M Kellner  
131 N Ludlow St  
Suite 900  
Dayton, OH 45402

D. Anthony Sottile  
Sottile & Barile, Attorneys at Law  
P.O. Box 476  
Loveland, OH 45140

I certify that a copy of the foregoing was served by U.S. mail on the 22<sup>nd</sup> day of July, 2016, upon:

James D. Gentry  
655 Golf View Court  
Vandalia, OH 45377

/s/ Erin M. Dooley  
Erin M. Dooley (0089092)